Response to RFI BTOP/BIP

Thank you for the opportunity to offer suggestions for improvements in the NTIA/RUS process for the second round. The following comments follow the order and lettering of the RFI.

I. A. In general, the application process was very demanding—even onerous for any firm with a small staff when issued on such a short timeline. We suggest the following for the second round: Yes, eliminate or shorten many of the attachments. Ask for the information in the application but leave most of the verification for the second step after you have winnowed out the most promising applications; then ask for all the documentation and supporting engineering.

Applying separately will not reduce the burden, but not asking for the similar information in a slightly different form twice will. It should not be necessary to have different justifications for the two agencies.

Public computer center and sustainable adoption projects should demonstrate that they either already have or are paired with infrastructure projects which will provide adequate connectivity to accomplish their goals.

1. New entities should not have to provide historical financial statements—but that is not a great burden either, we are one of those entities and we were able to provide most of our first year funding and expenditures without problem. The real issue is to not have a reviewer interpret startup data without revenue as an indication of lack of long term viability.

2. Consortiums and Public-Private partnerships should provide a clear presentation of what each is committing to the project and have a clear statement of support in the application from each partner.

3. Consideration should be given to zip code or phone exchange data levels as well as census block. We understand that much of Commerce may be familiar with and have access to census block data but the rest of us found it hard to even to access Commerce maps down to the block level let alone have data mapped to the low level blocks. Our surveys were done by zip code, telephone exchange areas or street level mapping. For our own application, we were completely unable to map our survey data back to census block level.

4. It is understandable to have rural applications go to RUS first. The different rules however meant double work. RUS' emphasis on loans to increase the "pool" kept many non-incumbent (read not cash flow proven) entities from applying for RUS directly—they only fully completed the NTIA requirements while applying to both agencies. We strongly recommend that our suggestion made before round one be reconsidered: That NTIA fund grants and RUS fund loans for rural projects—not dual funding, which is prohibited—but co-operative funding. That achieves the goal of stretching the RUS funds while keeping NTIA from funding large grants in areas RUS could have partially funded.

   As to applicants for whom a loan would not be acceptable; any startup (innovative new provider) is going to be loathe to commit to a large loan when they have no idea of the terms of the loan and no proven revenue. Any applicant whose team is capable and experienced in startups is also going to clearly understand that any startup without revenue is not going to look like a good loan risk. Add the fact that RUS permits no overhead or operational funds and you create a startup which is almost certain to fail unless they also have private sources of funds. No matter how good the project, if there is no provision for operating funds then the project will fail before reaching cash flow positive. In our case, we can support a grant/loan combination, but we also need to borrow working capital.

B. The public is welcome to any data we have submitted with our application. We are a public authority and our meetings and books are open as is our network. The executive summary and areas for which we are requesting funding can certainly be made available.

C. FAQ could be updated more frequently with questions learned and answered via the help desk. A guidance manual update from questions answered would also help.

D. We cannot adequately address this question. We do know that many highly qualified individuals could not volunteer due to the conflict requirement that they not only could not work on an affiliated application but that they were banned from working on any future application as well. Our staff simply cannot agree to lock out unknown future work.

II. Proposals that target the greatest percentage of unserved (using the Congressional intent of 3 meg minimum down) and that provide connections to public anchors should be given priority. Middle Mile proposals that have last mile partners or components should likewise be given priority. The list of metrics given at the end of (II. Policy issues) are all appropriate and we believe were all addressed in round-one funding. The increase in adoption rates may be critical for cash flow for a provider but estimates of take rates and indirect jobs created are only good guesses at best and therefore not a valid basis for judging the quality of an application.

1. Yes, give priority to middle mile projects that connect anchors and communities to the backbone.

Middle mile projects which have last mile components or partners should be given priority. For our own first application, the census block definition, the "advertised" 3 meg qualification, and lack of time to *prove* known lack of coverage in specific small areas prevented us from applying for both middle mile and last mile—though we are paired with a last mile wireless provider's application. If our middle mile application is funded, we intent to apply for funding in the second round for the last mile so that we may truly serve the citizens of our two counties.

Projects that reach the greatest territory and unserved population should be given priority—if they accomplish their goal cost effectively and in a manner which can be sustained with revenue. Middle mile projects that reach public anchor institutions should have continued priority and will help education and their communities. However, middle mile projects without a means of funding the build-outs to businesses and residences will not improve the economic and educational opportunities for all.

Projects whose anchor institutions and/or co-operating public or sustainable partners show outreach to vulnerable populations should also receive high consideration.

Demonstrable community support and regional coverage should also receive high consideration.

Overlap with existing service providers is important, but only if the existing service is of adequate quality and speed. The current "secret" no rebuttal PNR process and "advertised 3 meg" makes using that criteria indefensible as there is no visibility of accuracy of the challenge.

2. The validation for spending on broadband infrastructure is basically all for economic development. That said, we don't believe that there is sufficient time to develop meaningful regional economic development approaches for the communities not already engaged in the process. We were formed to provide broadband specifically for economic development by our two counties—but even we would be hard pressed to present a defensible comprehensive plan as to exactly how broadband would lead directly to economic development without it being a nebulous as "indirect jobs created".

3. The funding cannot target populations beyond the public and sustainable portions without destroying what should be a comprehensive and methodical build-out of our broadband infrastructure—as was done with electrification.

The most efficient way to fund public computer centers and sustainable adoption is to provide funding for schools and libraries –not only for hardware but pay for staff to keep the facilities open to the public for extended hours. Our library parking lot is occupied on Sundays with citizens "borrowing" the library's WI-FI connection when the library is closed.

4. The best way to leverage existing infrastructure with this funding is to have FCC enforce reasonable and prompt interconnection requirements between incumbents and these new classes of service providers. It will also be incumbent on RUS in particular to be diligent in requiring their rural incumbent applicants to be truly open to service providers on the network portions funded via this program.

B. Unserved and Underserved qualifying speed definitions.

For the second round of funding, the clear Congressional intent of a minimum of 3meg and 10meg download speeds should be used as a minimum for qualifying applications as to un-served and underserved areas.

One must express considerable disappointment and consternation at Commerce and Agriculture accepting the FCC's horribly out of date definition of broadband for first round funding. If taxpayer funds are going to be used to build infrastructure that the regulated utilities could have and should have already undertaken then that infrastructure should be designed to provide adequate service for the public for a long useful life. To spend taxpayer dollars to fund building of networks that are inadequate from day one is a waste.

More troubling is the mixing and confusion of the qualifying speeds for the un-served and underserved service areas with the designed delivery speed of a network funding request for an area. We even heard Asst. Secretary Strickling make the same mistake in his testimony before Congress on October 27. We paraphrase Sec. Strickling: "We didn't want to set the speed threshold so high that it prevented applications from areas where 768 is all they could obtain." We see nothing in the Act or the regulations that would have prevented an applicant from applying for funding for projects where 3 and 10 meg was not reasonably attainable but the population was presently totally un-served by broadband. The definition speeds are to determine the degree of need for a region—not what the design parameters should be. The confusion of maximum qualifying speeds to be funded and desirable design minimums should be eliminated for the second round and the qualifying speed should be raised to at least an adequate broadband level.

Advertised speeds: Actual speeds should be used for all "hardwired" connections. Wireless connections need to be measured on a standard of reasonable and normal performance achieved. The advertised speed criteria serves no discernible propose but to protect poor DSL and wireless service offerings from incumbent providers. In our own case, the incumbent

claims 3 meg service for 80% of our two counties. Not only can they not deliver 3 meg to but a small portion of the area—they cannot deliver any speed to over 40% of the territory. They also claim extensive wireless coverage—but that is only expensive, slow cellular coverage and even voice cellular doesn't work for large portions.

We concur with an emphasis of funding worthwhile projects in areas that are totally un-served by broadband services at any speed. Those areas are truly handicapped in today's world. However, to disqualify an area for funding on the **theory** that wireless (cellular) coverage up to 768 and **advertised** DSL speeds of up to 3meg are or may be available is a severe disservice to large areas of this nation and totally at variance with the stated goal of using this stimulus funding to bring world class communications to underserved and un-served areas. The first round qualifying definition encourages the continued deployment of old technologies that are totally inadequate for modern demands. To expend taxpayer dollars to reinforce an inadequate network and wasteful expenditure of taxpayer funds is not defensible.

The definition for qualifying speeds such should be set to at least the Congressional minimum of 3 meg for unserved and 10 meg for underserved. The design speeds for proposals should follow the technology employed and its appropriateness for the region being served.

Measurement of speeds should be by sampling. Any incumbent challenging and application should be required to document their achieved coverage and speeds realized, at least to BTOP/BIP.

We were not as bothered by the difference between remote rural and just rural as some—understanding that RUS preferred loan/grant combinations in any case. However, our region is geographically remote as well remote by population. Due to the statistical anomaly of joining Salisbury, MD with all of its surrounding territory, including miles of woods and farms to include Ocean City, MD , to create a statistical metro area, we are shown as having an urban area within fifty miles of most our region—though no one visiting would consider us anything but remote. Therefore, geographic barriers and population density should both figure in remote definition.

C. We were not able in the short time period afforded for round one to gather, at census block level, the data to withstand a "blind" challenge from an incumbent. Therefore we applied for middle mile only, as we were not able to defend a full last mile proposal—though the service is sorely needed. The applicant must have an opportunity to learn what has been challenged and be afforded an opportunity to respond. We do not need to see confidential data; however, in our own case, one incumbent has filed a PNR of which we know nothing but a claimed "overlap". We know that they offer Internet services in only two small towns—and those towns are specifically excluded from our application because they are funded via other sources.

The entity questioning the application must show that they meet the minimum penetration and speed standards over the area they are challenging. The applicant needs to know what specific areas are being challenged and whether that challenge is based on speed or penetration.

We do not see the state mapping data being available at a high quality in time. Our own state is one of the few that has attempted a broadband map for the entire state. In our two counties the resulting map, produced with the presumed co-operation of the incumbents is more a map of where they *could* offer services if they chose to make the investment rather than one of where service actually exists. It is so inaccurate as to be laughable if it wasn't being used for serious purposes. It shows hard wired DSL service over _ mile out into the Chesapeake Bay and crossing physical barriers.

D. The interconnection and nondiscrimination requirements need to be maintained and enforced going forward. We do not see where different entities should have different rules. Projects built with public monies should be available to all providers and private telcos should be required to allow access to those portions of the network at reasonable rates.

E. We do not have an issue with the sale requirements. The length of "first lien" is more of an issue for us as it precludes getting other funding based on our assets.

F. Yes, cost effectiveness should be major criteria for selecting a project for funding. Obviously some areas or methods are going be a lot more costly than others. Wireless is cheap to deploy but expensive to maintain. Fiber is expensive to deploy and cheap to maintain. Cost for value received should be the basis.

Evidence that unnecessary costs have not been added, that should be determined during the due diligence phase by having the applicant go through their cost structure and items and defend them

G. The two most substantive changes needed are: 1) to increase the minimum qualifying speeds to at least the Congressional intent of 3 meg down for unserved and 10 meg down for underserved. 2) provide a means for the applicant to respond to any incumbent challenge before unilaterally deciding that the project is duplicitous.

Thank you for the opportunity to offer input,

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